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of aggregation of requests for fee purposes under § 15.106(h).

§ 15.104 Procedures for processing FOIA requests.

(a) *In general.* HUD will ordinarily respond to FOIA requests according to their order of receipt.

(b) *Tracking number.* FOIA requests will be logged in the order that they are received and be assigned a tracking number. A requester should use the tracking number to identify his or her request when contacting FOIA office for any reason.

(c) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information; or

(iii) The loss of substantial due process rights.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing should be received by the proper office designated to receive FOIA requests as provided in § 15.102.

(3) A requester who seeks expedited processing should submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester who makes a request under paragraph (c)(1)(ii) of this section, if not a full-time member of the news media, should establish that he or she is a person primarily engaged in disseminating information, though it need not be his or her sole occupation. A requester making a request under paragraph (c)(1)(ii) of this section also should establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity gen-

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erally. The formality of certification may be waived as a matter of administrative discretion.

(4) HUD will make a determination within 10 calendar days of receipt by the appropriate component of HUD, as provided in § 15.103, whether to grant or deny a request for expedited processing and notify the requester of HUD's determination. FOIA requests accepted for expedited processing will be processed as soon as practicable and on a priority basis.

(d) *Multitrack processing.* (1) For requests that do not qualify for expedited processing, HUD may use two or more processing tracks by distinguishing between simple and complex FOIA requests based on the following: The time and work necessary to process the FOIA request and the volume of agency records responsive to the FOIA request.

(2) When HUD uses multitrack processing, it may provide requesters in its slower track an opportunity to limit the scope of their requests in order to qualify for faster processing within the specified limits of HUD's faster track. When HUD chooses to provide this option, HUD will contact the requester by telephone, letter, or email, whichever is more efficient in each case.

§ 15.105 Responses to requests.

(a) *Acknowledgements of requests.* The FOIA office in the Office of the Executive Secretariat in HUD Headquarters and FOIA Public Liaison in each HUD field office will ordinarily send an acknowledgement letter to the requester that will confirm receipt of the request by the appropriate HUD office and provide an assigned tracking number, as provided by § 15.104(b), for further reference.

(b) *Consultations, coordination, and referrals.* When HUD receives a request for a record in its possession, it shall determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA or whether it should be disclosed as a matter of administrative discretion. If HUD determines that it is best able to determine whether the record is exempt from disclosure, then it shall do so. If HUD determines that it is not

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best able to make that determination, then it shall either:

(1) Respond to the request regarding that record, after consulting with the agency best able to determine whether to disclose it and with any other agency that has a substantial interest in it; or

(2) Refer the responsibility for responding to the request regarding that record to the agency that originated the record, but only if that agency is subject to the FOIA. Ordinarily, the agency with which the record originated will be presumed to be best able to determine whether to disclose it.

(c) *Fee estimates.* HUD will notify the requester if HUD's estimate of the fee is more than the requester has agreed to pay. Consistent with § 15.106(e), the requester shall have 15 working days to agree to pay the higher fee.

(d) *Forms of response.* (1) Granting requests in whole or in part. Once HUD makes a determination to grant a request in whole or in part, it will notify the requester in writing. HUD will make a record available in the form or format requested, if the record is readily reproducible in that format. HUD will inform the requester in the notice of any fee charged under § 15.106 and disclose records to the requester promptly upon payment of any applicable fee. Records disclosed in part will be marked or annotated to show the amount of information deleted and the exemption(s) under which each deletion is made, unless doing so would harm an interest protected by an applicable FOIA exemption. The location of the information deleted and the exemption(s) under which the deletion is made will be indicated directly on the record itself, if technically feasible.

(2) Adverse determination of requests. If a determination is made to deny a request in any respect, HUD shall notify the requester of that determination in writing. Adverse determinations, or denials of requests, include: A determination to withhold any requested record, in whole or in part; a determination that a requested record does not exist, cannot be located, or has not been retained; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that

what has been requested is not a record subject to the FOIA; a determination on any disputed fee matter, including a denial of a request for a fee waiver or reduction; and a denial of a request for expedited treatment. The denial letter shall be signed by the Director of the Office of the Executive Secretariat, or a designee of the Director, in HUD Headquarters or the FOIA Public Liaison for the HUD field office where the adverse determination was made, and shall include:

(i) The name and title or position of the person responsible for the denial;

(ii) A brief statement of the reason(s) for the denial, including any FOIA exemption applied by HUD in denying the request;

(iii) An estimate of the volume of records or information withheld, when appropriate, in number of pages or in some other reasonable form of estimation. This estimate does not need to be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption; and

(iv) A statement that the denial may be appealed as provided by § 15.109 and a description of the requirements for appeal.

§ 15.106 Fees.

(a) *In general.* HUD will charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except where fees are limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (k) of this section. HUD shall collect all applicable fees before sending copies of requested records to a requester. In order to resolve any fee issues that arise under this section, HUD may contact a requester for additional information. Requesters shall pay fees by check or money order made payable to the United States Treasury.

(b) *Definitions.* For purposes of this section:

Commercial use means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or